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by: SHEILA W. WHITMORE
REGISTER OF DEEDS
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STATE OF NORTH CAROLINA

DECLARATION OF COVENANTS,
RESTRICTIONS AND EASEMENTS
OF CONTUCK PRESERVE

COUNTY OF POLK

THIS DECLARATION is made this 23rd day of February, 2006, by
CONTUCK PROPERTIES, LLC.

WITNESSETH:

WHEREAS, ConTuck Properties, LLC, (hereinafter referred to as the
"Declarant"), is the owner and developer of that certain real estate known as ConTuck
Preserve located in White Oak Township, Polk County, North Carolina, as described in
Article I of this Declaration; and,

WHEREAS, the Declarant as the owner desires to develop said real property
into a residential and/or agricultural community; and,

WHEREAS, for the purpose of protecting the use and quiet enjoyment of the
real property as a restricted residential and/or agricultural community, Declarant desires
to make certain reservations and impose certain restrictive protective and affirmative
covenants, easements, charges and liens on said real property as hereinafter set forth;
and,

WHEREAS, Declarant also desires to provide for the maintenance of the private
roads of the community and to create an entity to which may be delegated and assigned
the powers of maintaining said private roads and also administering and enforcing the
covenants and restrictions and collecting and disbursing the assessments and charges
hereafter created, which entity shall be incorporated under the Laws of the State of North
Carolina as a non-profit homeowners association for the purpose of exercising the
functions aforesaid;

NOW, THEREFORE, Declarant declares that, subject to the provisions of this
Declaration, the real property described in Article I of this Declaration, including the
improvements constructed or to be constructed thereon, is subjected to the provisions of
this Declaration, and shall be held, sold, transferred, conveyed, used, occupied, and
mortgaged or otherwise encumbered subject to the covenants, conditions, restrictions,
easements, assessments, and liens, set forth in this Declaration, which are for the purpose
of protecting the value and desirability of, and which shall run with the title to, the real
property subject to this Declaration, and shall be binding on all persons having any right,
title, or interest in all or any portion of the real property subject to this Declaration, their
respective heirs, legal representatives, successors, successors-in-title and assigns and
shall be for the benefit of all owners of the property subject to this Declaration, to the
end that there may be common enjoyment of a natural, rural environment and scenic
views.

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Article I
Property Subject To This Declaration

Section 1. Property Hereby Subjected To This Declaration. The real property which is, and shall be, held, transferred, sold, conveyed, and occupied subject to this declaration is located in White Oak Township, Polk County, North Carolina, and is more particularly described as follows:

All that certain 103.87 acres, more or less, of real property as conveyed to Contuck Properties, LLC by deed from Scott Salik dated 8/2/2006 and recorded in Book 338 at Page 378, Polk County Registry. Said subdivision consisting of 22 lots; with a Phase 1 containing five (5) lots as shown and delineated upon subdivision plat entitled "CONTUCK PRESERVE", dated August 4, 2005, prepared by Lattimore & Peeler Surveying, Lawndale, North Carolina and recorded in Card File E at Page 1278, Polk County Registry; and with Phase 2 containing 17 lots as shown and delineated upon plat entitled "CONTUCK PRESERVE", dated _____, prepared by Lattimore & Peeler Surveying, Lawndale, North Carolina and recorded in Card File _____ at Page _____, Polk County Registry.

Section 2. Increase of Size of Development. The Declarant reserves the right to add Additional Property to the Development by filing an appropriate instrument in the Office of the Register of Deeds of Polk County, North Carolina subjecting such Additional Property to the terms and provisions of this Declaration, regardless of whether at such time Declarant shall own a sufficient number of Lots to permit it to amend this Declaration pursuant to the provisions this Declaration or Section 47F-2-117 of the North Carolina General Statutes reflecting such change or addition.

Article II
Formation, Membership and Voters Rights in Property Owners Association

Section 1. ConTuck Preserve Property Owners Association. A property owners association known as the "ConTuck Preserve Property Owners Association" (the "Association") or such similar name as is approved by the North Carolina Secretary of State upon the Association's incorporation as a non-profit property owners association under applicable North Carolina law, will be formed by the Declarant and all Lot owners shall be obligated to become a member of such Association. The purpose of the Association shall be primarily for the maintenance of the private roads and common area properties of ConTuck Preserve. The Declarant shall remain a member of the Association so long as it continues to own or offer any property for sale in the development and Declarant shall not be assessed or pay any membership assessments or dues.

Section 2. Membership. Every person or entity who is a record owner of a fee or undivided fee interest in any Lot, which is subject by covenants of record to assessment by the Association, shall be a member of the Association, provided that any such person or entity who holds such interest merely as a security for the performance of an obligation shall not be a member. No owner may except or exclude himself from membership or contributions to the association by waiver of use of enjoyment of the amenities provided by the Association.

Section 3. Voting Rights. The Association shall have two classes of voting membership:

Class A: Class A members shall be all those owners as defined in Section 1 with the exception of the Declarant. Class A members shall be entitled to one vote for each lot in which they hold the interest required for membership by Section 1. When more than one person holds such interest or interest in any Lot, all such persons shall be members,

and the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Lot.

Class B: The Class B member shall be the Declarant, and the Declarant shall be entitled to four (4) votes for each Lot owned. For purposes of calculating Class B votes, Declarant's lots shall include all subdivision lots not previously conveyed by Declarant whether contained in present or future Phases of the development. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) When the total votes outstanding in Class A membership equal the total votes outstanding in Class B membership, or

(b) January 1, 2011.

Section 4. Voting, Quorum and Notice Requirements in the Association. Except as may be otherwise specifically set forth in this Declaration or in the Bylaws, the vote of a majority of all votes entitled to be cast by all classes of the Association Members, present or represented by legitimate proxy at a legally constituted meeting at which a quorum is present, shall be the act of the Association Members. The number of votes present at a meeting of the Association Members that is properly called and that will constitute a quorum shall be as set forth in the Bylaws. Notice requirements for all actions to be taken by the Association Members shall be as set forth herein or in the Bylaws. Notwithstanding the above, the affirmative vote of no less than three-fourths (3/4) of all votes entitled to be cast by the Association members shall be required in order for the Association to (1) file a complaint, on account of any act or omission of Developer, its agents, employees or contractors, with any governmental agency which has regulatory or judicial authority over the Properties or any part thereof; or (2) assert a claim against or sue Declarant.

Section 5. Executive Board, Officers and Bylaws. A Board of Directors and such necessary officers of the Association shall be appointed or elected as provided herein or in the By-laws of the Association and said Board and officers shall act on behalf of the Association pursuant to the guidelines and authority set forth in said By-laws.

Section 6. Liability Insurance. The Association may maintain adequate grounds liability and fidelity coverage against dishonest acts by officers, directors, trustees and employees, and all others who are responsible for handling funds of the Association, as set forth in the By-Laws.

Section 7. Indemnification. To the fullest extent allowed by North Carolina law, the Association shall indemnify every person who was or is a party or who is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Association), by reason of the fact that such person is or was serving as a director or officer of the Association, against any and all expenses, including attorneys' fees, imposed upon or reasonably incurred in connection with any action, suit, or proceeding, if such person acted in a manner reasonably believed to be in or not opposed to the best interests of the Association and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. Any indemnification shall be made by the Association only as authorized in a specific case upon a determination that indemnification of the person is proper under the circumstances.

Section 8. Declarant Control. So long as the Declarant owns any lot, tract or portion of the Properties, the members of the Board of Directors of the Association (Executive Board) shall be appointed by the Declarant. The number of members of the Board of Directors shall be as set forth in the Bylaws. At such time as Declarant owns no lot, tract or other portion of the property, then the members of the Board of Directors shall thereafter be elected by a vote of the Association members in accordance with the Bylaws. Provided, however, that Declarant may choose, in its sole discretion, to relinquish its right to appoint the members of the Board of Directors prior to the time

that it owns no portion of the Properties, whereupon the Association members shall thereafter elect the members of the Board of Directors in accordance with the Bylaws.

The Declarant may appoint a Property Owners Association Manager for an initial term not to exceed five (5) years. The Property Owners Association management's compensation shall not exceed twenty (20%) percent of the total Association dues.

Section 9. Powers of Association. Subject to any provisions herein limiting the powers of the Property Owners Association or providing for Declarant's rights or authority during the period of Declarant Control, it is the intent of this Declaration that the Declarant and the Property Owners Association have such powers or authority set forth under North Carolina General Statutes §47F-3-102 and all other provisions of Article 3 of Chapter 47F relevant to enforcement of these covenants and the management of the Association.

Article III Property Rights In The Common Properties

Section 1. Member's Easement of Enjoyment. Subject to the provisions of Section 3, every Member shall have a right and easement of enjoyment in and to the Common Properties and such easement shall be appurtenant to and shall pass with the title to every Lot. The Common Properties of ConTuck Preserve being defined as the entrance way or area to the subdivision and all subdivision roads, walkways and paths, picnic areas, shelters, river side pavilion, along with such other properties, if any, which may be dedicated by Declarant to the Association for use by property owners. The roads, walking trails, and the common areas in the Subdivision are private. In addition to the common areas that are expressly outlined in the Subdivision Plat, there is a 100 foot common area easement established along the properties in the Subdivision that border the Green River. No structure shall be erected on this 100 foot easement area except those picnic tables, benches and shelters that the Developer and Property Owners Association may establish. All common area lots and easements are for the enjoyment and inure to the benefit of the property owners. Easements ten feet in width are reserved along the rear and side lot lines of each lot for the installation and maintenance of telephone, electric, water and drainage facilities. Said ten feet wide lot line easements also reserved for the establishment of walking trails on them for the benefit of all lot owners. The Developer has established and will continue to develop walking trails throughout the development. Those trails are intended for walking and recreational purposes and no motorized vehicles are permitted. Due to the residential nature of the development, the use of all terrain vehicles is prohibited. The use of maintenance vehicles is expressly excepted from this prohibition.

Section 2. Title to Common Properties. The Declarant may retain the legal title to the Common Properties until such time as it has completed improvements thereon and until such time as, in the opinion of the Declarant, the Association is able to maintain the same but, notwithstanding any provision herein, the Declarant hereby covenants for itself, its successors and assigns, that it shall convey all its right, title and interest in the Common Properties to the Association not later than December 31, 2011.

Section 3. Extent of Member's Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

- (a) the right of the Association, as provided in its Articles, to suspend the enjoyment rights of any Member for any infraction of its published rules and regulations; and
- (b) the right of the Association to make reasonable assessments to maintain the Common Properties; and
- (c) the right of the Association to dedicate or transfer all or any part of the Common Properties to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members, provided that no such dedication or transfer or determination as to the purposes or as to the conditions thereof,

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shall be effective unless an instrument signed by Members entitled to cast two-thirds (2/3) of the votes of each class of membership has been recorded, agreeing to such dedication, transfer, purpose or condition, and action thereunder is sent to every Member at least thirty (30) days in advance of any action taken.

(d) the right of the Declarant or the Association to promulgate and enforce reasonable regulations governing the use of the Common Properties to insure the availability of the right to use the Common Properties to the Owners and the safety of all Owners on the Common Properties.

(e) the right of the Declarant or the Association to grant utility, drainage and other easements across the Common Properties.

Article IV
Covenants For Maintenance Assessments

Section 1. Creation of the lien and Personal Obligation of Assessments. Each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association: (1) annual assessments of charges; (2) special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof as herein provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made except to lien creditors. Each such assessment, together with such interest thereon and costs of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents of the subdivision and in particular for the improvement and maintenance of properties, services and facilities devoted to its purpose and related to the use and enjoyment of the Common Properties including, but not limited to, the maintenance of roads, the payment of taxes and insurance thereon and repair, replacement and additions thereto, and for the cost of labor, equipment, materials, management and supervision thereof.

Section 3. Basis and Maximum of Annual Assessments. Until the year beginning January 1, 2007, the annual assessment shall be Four Hundred and NO/100 (\$400.00) Dollars per Lot. From and after January 1, 2007, the annual assessment may be increased by vote of the Members, as herein provided.

The Board of Directors of the Association may, after consideration of current maintenance costs and future needs of the Association fix the actual assessment for any year at a less amount, for the year beginning January 1, 2007.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized by Section 3 hereof, the Board of Directors of the Association as set forth in the Bylaws may levy in any assessment year a special assessment, applicable to the year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, grounds liability insurance, unexpected repair or replacement of a described capital improvement upon the Common Properties, including the necessary fixtures and personal property related thereto.

Section 5. Change in Basis and Maximum of Annual Assessments. Subject to the limitations of Section 3 hereof, and for the periods therein specified, the Board of Directors of the Association as set forth in the Bylaws may change the maximum and basis of the assessments fixed by Section 3 hereof prospectively for any such period.

Section 6. Date of Commencement of Annual Assessments; Due Dates. The annual assessments provided for herein shall commence on January 1, 2007 and on January 1st

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of each year thereafter. Prior to January 1, 2007, the Declarant agrees to maintain those Common Properties in a reasonable state or repair and operation.

Section 7. Duties of the Board of Directors. The Board of Directors of the Association shall fix the date of any special assessment and at least thirty (30) days in advance of the due date of any assessment, prepare a roster of the properties and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any owner.

Written notice of the assessment shall thereupon be sent to every Owner subject thereto.

The Association shall upon demand at any time furnish to any Owner liable for said assessment a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 8. Special Individual Assessments. The Board of Directors of the Association as set forth in the Bylaws may levy special assessments against individual Owners ("Special Individual Assessments") (i) for the purpose of paying for the costs of any construction, reconstruction, repair or replacement of any damaged component of the Common Areas and Maintenance Areas, including the streets, occasioned by the acts of Owner(s) and not the result of ordinary wear and tear or (ii) for payment of fines, penalties or other charges imposed against an individual or separate Owner relative to such Owner's failure to comply with the terms and provisions of this Declaration, the Bylaws or any rules or regulations promulgated hereunder.

Section 9. Owner's Personal Obligation for Payment of Assessments. The Annual Assessments, Special Assessments and Special Individual Assessments provided for herein shall be the personal and individual debt of the Owners (as of the due date of the applicable Assessment payment) to which such Assessments relate. No Owner may exempt himself from liability for such Assessments by non-use of his property or the Common Area or otherwise. If the Assessment is not paid within thirty (30) days after the delinquency date, such being an event of default in the payment of any such Assessment, the defaulting Owner shall be obligated to pay interest at the rate of eighteen (18%) percent per annum or the highest rate permitted by law, whichever is less, on the amount of the Assessment from the due date thereof until the date such Assessment and interest is paid, together with all costs and expenses of collection, including reasonable attorneys' fees. In addition, the delinquent Owner shall also pay such late charges as may have been theretofore established by the Association to defray the costs arising because of late payment.

Section 10. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages now or hereafter placed upon the properties subject to assessment; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to sale or transfer of such property pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability of any assessments thereafter becoming due.

Section 11. Exempt Property. The following property subject to this Declaration shall be exempt from the assessments, charges and liens created herein: (a) all properties to the extent of any easements or other interest therein dedicated and accepted by the local public authority and devoted to public use; (b) all Common Properties (c) all property exempt from taxation by the laws of the State of North Carolina, upon the terms and to the extent of such legal exemption; and (d) all unsold lots owned by Declarant until January 1 of the year following the sale of such lots by Declarant.

Notwithstanding any provisions herein, no land or improvements devoted to dwelling use shall be exempt from said assessments, charges or liens.

**Article V
Restrictions And Covenants**

Section 1. No Lot shall be used except for private, single family residential and agricultural purposes. No buildings shall be erected, altered, placed or permitted to remain on any Lot other than one detached single family dwelling, not to exceed two and one-half (2 1/2) stories in height, a private garage and, if approved by the Declarant in advance in writing, a small hobby-type building, a guest house, garages and stables and outbuildings which shall match the style and construction of the main dwelling and farm-type support structures necessary to maintain private equestrian facilities. All plumbing, lavatories and sanitary devices must be built indoors and be connected with outside septic tanks and drain fields properly approved by the County or State prior to installation.

Section 2. All cutting of trees outside the building sites will be in such manner so as to leave the lot wooded. No trees, shrubs, bushes or other vegetation having a diameter of three (3") inches or more shall be cut, destroyed, bulldozed or mutilated except with the express written permission of the Declarant for establishing pasture.

Section 3. No grading or other land disturbing activity may be commenced upon any lot prior to developer's approval and until the owner of such lot has installed silt fencing and other such sedimentation control devices as necessary to prevent soil erosion resulting from any grading or land disturbing activity. All lot owners are responsible for erosion of soil from any lot which may collect and settle on roadways, drainage areas or other parts of the subdivision. Soil erosion control devices must be in place and approved by the Declarant prior to the commencement of any land disturbing activity.

Section 4. No subdivision of any lots shall be permitted. Combination of lots shall be allowed with the written permission of the Declarant.

Section 5. No dwelling shall be erected on any lot having less than 1,000 square feet of heated floor space on the main or ground floor of the residence. Multi-story homes shall have a minimum of 1,400 square feet. The floor space required by this article shall not include basements, porches, verandas, breezeways or garages.

Section 6. No building, including stoops, verandas, steps, porches and roofs shall be located nearer than fifty (50') feet from the front line of any lot or nearer than twenty five (25') feet to any side line of any lot than the building line shown on said plat nor nearer than twenty five (25') feet to any rear lot line.

Section 7. No trade, business, noxious or offensive activity shall be carried on upon any lot or adjoining street nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood or which tends to injure or damage the value of the neighboring property. No owner shall permit any unsanitary, offensive or unsightly condition to exist on any lot or adjoining street. No tractor, trailer, stripped down, partially wrecked, junked or unlicensed vehicle or sizeable part thereof shall be parked on any street or on any lot so as to be visible from any street. No truck greater than twenty four (24') feet in length, trailer, boat, camper, motor home or school bus shall be parked overnight or longer on any street or within the front set-back line of any lot, except as otherwise herein provided. Any receptacle for trash or garbage, clothes lines or poles, lawn mowers or debris shall be screened or so placed as not to be visible from any street. No tractor trailer truck combinations shall be allowed in the subdivision except for the purpose of loading and unloading.

Except for those portions, if any, of a Lot which the Association may elect to maintain or repair hereunder, the Owner of any Lot shall have the duty and responsibility at such Owner's sole cost and expense, to keep the Lot(s) owned by such Owner, including Improvements thereon and ground and drainage easements or other rights of way incident thereto, in compliance with the covenants, conditions, restrictions and development standards contained in this Declaration, in accordance with the provisions of applicable guidelines, and in a well-maintained, safe, clean and attractive condition at

all times. Such maintenance, as to unimproved and improved Lots, shall include, but shall not be limited to, the following:

- (a) Prompt removal of all litter, trash, refuse and waste;
- (b) Keeping land, including any lawns and shrub beds, well maintained and free of trash, uncut grass and weeds;
- (c) Keeping all sediment resulting from land disturbance or construction confined to the respective Owner's property;
- (d) Keeping any portion of private streets free, clear and unblocked at all times; and
- (e) Complying with all governmental health and police requirements.

In addition, such maintenance, as to improved Lots, shall include but shall not be limited to, the following:

- (a) Lawn mowing on a regular basis;
- (b) Tree and shrub pruning;
- (c) Watering by means of a lawn sprinkler system and/or hand watering as needed;
- (d) Keeping exterior lighting and mechanical facilities in working order;
- (e) Keeping lawn and garden areas alive;
- (f) Removing and replacing any dead plant material;
- (g) Maintenance of natural areas and landscaping in accordance with guidelines established by the Association;
- (h) Keeping parking areas and driveways in good repair;
- (i) Repainting of Improvements; and
- (j) Repair of damage and deterioration to Improvements, it being understood and agreed that if any Improvements are damaged or destroyed by fire or other casualty, then within six (6) months following the date such damage or destruction occurs, the Owner of the Lot on which such Improvements are situated, must repair and restore such damaged Improvements (in accordance with plans and specifications approved by the Association and otherwise (in accordance with the terms and provisions of this Declaration) or remove such damaged Improvements and restore the Lot to its condition existing prior to the construction of such Improvements.

Section 8. No tent, shack or barn, or other outbuilding located or erected on any lot may, at any time, be used as a residence, either temporarily, or permanently, nor shall any structure of a temporary character be used as a residence.

No trailer or mobile home shall be permitted on any lot, except that a trailer may be used by a builder during construction. Any construction trailer shall be specifically approved by the Declarant prior to its placement. Overnight camping shall not be permitted on any lot, except as herein permitted.

Notwithstanding other provisions of this condition, any lot owner shall be entitled to place on the property for temporary residential use, for a period not to exceed sixty (60) days per year, a motor home or travel trailer, provided that same must be occupied while on the lot. Additionally, a well, septic tank and driveway must be installed prior to such

use. Declarant reserves the right to approve any such motor home or travel trailer and such motor home or travel trailer may not be placed upon any lot until the Declarant has approved of same in writing.

Section 9. The Declarant shall establish design guidelines concerning the type of structures to be built in the subdivision. Those guidelines shall control building plans, materials, fences, colors, landscaping exterior lighting and similar items. The Declarant shall have the option to transfer this responsibility to the ConTuck Preserve Property Owners Association set forth hereinafter. No transfer of these responsibilities shall be completed until at least eighty percent (80%) of the lots in the subdivision has been sold. No building, structure or other improvement shall be erected on any lot until the design, plans, specifications, exterior color or finish, grade and location have been approved in writing by the Declarant, its successors and/or assigns. If the Declarant shall not be in existence, or if the design, plan specifications, grade and location have not been approved or disapproved within thirty (30) days after submission, then such approval shall not be required, provided that the design, plan specification, grade and location of the building, structure or other improvement shall conform to and be in harmony with the existing structures in the development. The location of the dwelling, driveways, parking areas, sidewalks, trash containers, heating and air conditioning units and plumbing and electrical details must be approved in writing by the Declarant. Landscaping of a particular lot must be approved by the Declarant.

A fee of One Hundred and NO/100 (\$100.00) Dollars shall be charged by the Declarant for a review of the plans and specifications, payable at the time of submission to the Declarant.

Section 10. All mailboxes must be approved and conform to the restrictions set forth by the Declarant.

Section 11. No fencing shall be erected until the design, height, materials and location have been approved in writing by the Declarant or such person as may be designated by the Declarant. In no case shall a chain link fence be erected. The location and design of fences on corner lots shall be approved by the Declarant. Special consideration will be given to the adjoining lots. No lot owner or successor in title shall be entitled to assert the defense of estoppel as to any fence which does not meet the requirements of this paragraph. No fence shall be erected which interferes with, damages, or obstructs the installation, maintenance or repair of underground utility lines, or drainage areas. The lot owner shall be fully liable for any and all damage to utility lines resulting from erection of a fence or other improvements, even though approval of the fence or other improvements has been properly obtained. All fences visible from main subdivision roads shall be board, split rail or other material specifically approved by the Declarant. No barbed wire, chain link, hog wire or other wire fences shall be visible from any major subdivision road. Farm-type fencing may be utilized in areas not visible from major subdivision roads, provided that no fence constructed primarily of barbed wire shall be permitted. Farm-type fencing may be placed on wood or metal posts. Metal posts shall be painted white or brown.

Section 12. No fireworks of any kind shall be used on any lot or on any public or private road or street in the subdivision.

Section 13. No motor bike, motorcycle, or off-road vehicle may be operated in the subdivision except for transportation to and from an individual lot. No vehicle may be operated on subdivision property, roads or common areas without insurance and current license plates. Any operator of a motorized vehicle must have a valid driver's license. Due to the residential nature of the development, the use of all terrain vehicles on the common areas is prohibited except to transport supplies to and from the river-side pavilion. The use of maintenance vehicles is expressly excepted from this prohibition.

Section 14. No signboards shall be displayed on any lot except a single "For Sale" sign and a builder's sign, or a single "For Rent" sign. No sign shall be more than eighteen by twenty-four (18" x 24") inches in size, provided, however the Declarant shall have the right to use additional signs for development of the property.

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Section 15. No domestic fowls, poultry, sheep or swine shall be kept upon any lot. Household pets may be maintained on the property; however, such pets must be confined or on a leash at all times. Nothing herein contained shall prohibit use of the property for horse farms or equestrian activities and events. However, horses may be placed on the property subject only to the following conditions:

(a) Horses may be maintained permanently only on cleared and seeded pasture. There must be at least one (1) acre of cleared pasture per horse permanently pastured. "Feeder" lots for the purpose of the commercial fattening of cattle are expressly prohibited.

(b) Horses may be temporarily housed in corrals or paddocks for the purpose of recreational riding, provided owners keep the area in a manner that is not offensive to their neighbors or the Declarant. Animal waste must be removed or composted, and horses are to be maintained in a manner consistent with humane husbandry.

(c) The construction of commercial stables or horse boarding facilities may be done only with the approval of the Declarant or the Association.

Section 16. All lots shall be subject to all easements as shown on the plats for said lots, and, in addition, the Declarant expressly reserves unto itself, its successors and assigns:

(a) An easement for drainage and utility installation, including cable television, and maintenance and for walking trails, on the rear ten (10') feet of each lot and ten (10') feet on each side lot line. Within said easements so reserved, no structure, planting or other materials shall be placed or permitted to remain which may damage or interfere with remain which may damage or interfere with the installation and maintenance of utilities or which may interfere with drainage and the flow of water within the easement areas, or the establishment of walking trails thereon.

(b) An easement and right of way for all private subdivision streets serving ConTuck Preserve; as the same shall appear throughout ConTuck Preserve Subdivision including the right to extend any subdivision road into any additional property contiguous to ConTuck Preserve which Declarant may annex into the Subdivision; along with an easement in all common areas and the right to access the same and any other easements appearing on the official subdivision plat of ConTuck Preserve Subdivision,

(c) The right to grant to the Association any or all of the reservations of easements and rights of way set forth immediately hereinabove, including specifically the right to grant to the Association easements for utilities and other uses over the common properties of ConTuck Preserve.

Section 17. All sewage shall be disposed of through septic tank systems approved by the Declarant and the Polk County Sanitarian. All wells shall be likewise approved.

Section 18. The exterior of all houses and other structures related thereon must be completed within one year after the commencement of construction and all construction debris should be removed at that time, except where such completion is impossible due to strikes, fires, national emergency or natural calamities.

No specific time limit is placed on each lot sold from the date of sale for construction of a dwelling to begin. However, purchasers who purchase lots within the subdivision either developed or undeveloped shall keep the lots in a neat and attractive manner, including but not limited to, regular mowing of grassed areas. In the event grassed areas shall become unsightly, the Declarant or the Association may, after notice to owner, clean the area or mow the grass and assess the owner for the cost involved.

Section 19. Construction of new buildings only shall be permitted on Lots, it being the intent of this covenant to prohibit the moving of any existing new or used building onto a Lot. Provided, however, that nothing herein shall prohibit Declarant from moving an

existing new or used building onto a Lot to be used for storage or for use as construction or sales offices.

Section 20. The name "ConTuck Preserve", or any similar use of said name is the sole and exclusive property of the Declarant and cannot be used by any homeowner other than as used for this development, but may be used by the Declarant as it sees fit.

Section 21. Dog houses or dog pens may be allowed on any lot subject to the express written permission of the Declarant and must be located behind the house, not visible from the road.

Section 22. All garbage cans or pails must be hidden from view.

Section 23. The use of motorized lawn mowers, lawn tractors, grass trimmers, garden tillers, chain saws and other motorized (including, but not limited to, electric and gasoline- powered engines) lawn and garden maintenance equipment shall be prohibited before 8:00 o'clock a.m. and after 8:00 p.m. on all days.

Section 24. No lawn furniture or decorative items, such as statuettes or renderings of animate or inanimate objects, shall be maintained in the front or side yards of any Lot unless shielded from view by landscaping, a fence or a wall and approved in advance in writing by the Declarant or the Association.

Section 25. Bedding material, plastic sheets, towels or other similar non-standard window treatments shall not be hung or placed in or on any window on any dwelling located on any Lot, except on a short-term, temporary basis.

Section 26. No exterior lighting shall be installed without the approval of the Declarant. Approved exterior lighting shall be included within the design guidelines established in Section 9.

Section 27. No fuel tanks or similar storage receptacles may be exposed to view and may be installed only with the main dwelling house or unit, within the accessory building or within a screened area or buried underground. No window air conditioner shall be visible from the road.

Section 28. No non-DBS satellite TV antenna or dish and no swimming pool shall be placed upon any lot in the subdivision until approved by the Declarant or its designated representative. Any pool approved must be an in-ground pool.

Section 29. No flagpole shall be erected upon any lot or attached to any structure upon any lot and no flag shall be flown for any reason at any time upon any lot or structure unless the Declarant shall approve in writing any such flagpole to be erected or any such flag to be flown.

Section 30. In the event a dwelling on any lot is damaged or destroyed, and the Owner does not begin repair or reconstruction within thirty (30) days following the damage of destruction, he shall remove or cause to be removed, at his expense, all debris from the lot, so that it shall be placed in a neat, clean and safe condition; and if he fails to do so, the Declarant or the Association may cause the debris to be removed, and the cost of removal shall constitute a lien upon the dwelling until paid by the Owner and may be foreclosed in the same manner set forth in Article IV for liens for assessments.

Any dwelling which has been destroyed, in whole or in part, by fire or other casualty, and is subsequently restored or reconstructed, shall be subject to the provisions of this Declaration and to the By-Laws of the Association.

Section 31. All utility service lines, including cable television from existing streets, poles or rights of way, shall be installed underground to any dwelling or other structure located on any lot, unless otherwise approved by the Declarant.

Section 32. No owner or subsequent owner of any lot purchased from the Declarant, or derived through the chain of title of the land owned by Declarant, shall grant an easement or right of way across his lot or tract for any reason at any time to any person, individual or entity other than the Declarant, its successors and/or assigns, unless the same shall be approved in writing by the Declarant.

Section 33. Tent and open air camping on lots or tracts within ConTuck Preserve is permitted only under the following conditions:

(a) A driveway must be constructed on the lot and finished with gravel and culverts as needed to access a single campsite that is at least 30 feet from all lot lines and road rights of way.

(b) Campsites may not be occupied overnight by more than a total of 6 persons, unless all such persons are members of the owners immediate family.

(c) Campsites may not be rented under any circumstances.

(d) Upon approval of plans by the Declarant, a screened picnic shelter or open shelter for a picnic table may be constructed in an approved camping area, but no other structure may be constructed without approval of the Declarant.

Picnic tables and properly constructed stone or brick barbecue grills may be left on the lot, but all other camping equipment must be removed when the site is vacated.

(e) All fires will be contained in a properly constructed firepit or stone fire ring and thoroughly extinguished from the site as vacated.

(f) Campsites must be maintained free of trash and debris and should an owner or guest fail to properly clean the site prior to vacating, the Declarant shall have the right to enter the campsite for the purpose of cleaning it up and the owner shall pay a minimum charge of \$100.00 for such cleanup.

(g) Campsites may be occupied by guests of the owner only when the owner is present.

(h) At such time as 50% of the lots have a house constructed on them, no further camping shall be permitted, unless specifically approved by a majority vote of the Association or the Declarant.

Section 34. The Declarant hereby reserves the right and easement benefiting Declarant and the Association and burdening the Properties to go upon any Lot or other portion of the Properties in order to replant any trees, shrubs or other vegetation removed in contravention of the terms of this Declaration or to otherwise correct any nonconformity with or violation of this Declaration. Should Declarant or the Association exercise its easement rights pursuant to the terms of this Section 34, the Owner of the nonconforming Lot shall reimburse Declarant or the Association (as applicable) within five (5) business days following the submission of an invoice for any costs or expenses incurred by Declarant or the Association. The exercise or non-exercise of the easement rights contained in this Section 34 shall be subject to the discretion of the Declarant and the Association and neither Declarant nor the Association shall have the obligation to exercise such rights.

The Declarant and/or the Association shall have the authority, but not the obligation, in its sole discretion, to assess penalties against an Owner who cuts, damages, or removes any trees, shrubs or other vegetation (i) from any part of the Common Area, or (ii) from any Lot, contrary to the provisions of this Declaration. The penalties authorized by this Section 34 as well as the expenses to be reimbursed, shall be considered Special Individual Assessments against the respective Owner's Lot, entitling the Association to the assessment collection remedies specified in Article IV of this Declaration.

Section 35. The Declarant hereunder reserves the right, but does not create the obligation by instrument in writing and properly recorded, to transfer all powers, rights, easements, privileges, and/or duties reserved to Declarant herein in order to vest the same in the Association, except that the Declarant alone shall retain the right to modify these restrictions during the period of Declarant control. Subsequent to the conveyance to the Association of rights hereunder retained and during the period of Declarant control, Declarant shall continue to retain the right to overrule any decision by the Association, when Declarant deems that such is necessary and appropriate in its sole and uncontrolled judgment and discretion to facilitate development of the property.

Section 36. Right of First Refusal. The Declarant reserves the right of first refusal to purchase any lot in the subdivision that is to be resold. Any owner deciding to sell a lot(s) in the subdivision shall give the Developer thirty (30) days written notice of the intention to sell or transfer said lot(s). The terms of sale shall be mutually agreed upon between the parties. If no agreement is reached within thirty (30) days from the receipt of the written notice, this right of first refusal shall terminate and the Owners shall be entitled to sell or transfer the lot(s) without further release of this provision.

Article VI General Provisions

Section 1. Duration. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Declarant or his successor, the Association, or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors and/or assigns, for a term ending December 31, 2030, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless instruments signed by the then Owners of four-fifths (4/5) of the lots has been recorded, agreeing to change said covenants and restrictions in whole or in part. The President of the Association shall be required to verify the signatures and certify his/her verification on any changes so approved and filed in the Courthouse.

Section 2. Notices. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

Section 3. Enforcement. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity. Said covenants and restrictions shall run with the land and the Declarant, the Association, any purchaser, their heirs, successors and/or assigns shall have the right to proceed against any party violating or attempting to violate any article or section herein, either to restrain a violation or to recover damages against any person or persons, corporation or other entity and to enforce any lien created by these covenants.

Section 4. Severability. Invalidation of any one of these covenants and restrictions by judgment or Court order shall in no way effect any other provisions which shall remain in full force and effect.

Section 5. Lease of Lots. Any permitted lease agreement between an Owner and a Lessee for the lease of such Owner's Lot shall provide that the terms of the Lease shall be subject in all respects to the provisions of this Declaration of Covenants, Conditions and Restrictions, the Articles of Incorporation and By-Laws of the Association and that any failure by the Lessee to comply with the terms of such document shall be a default under the terms of the lease.

Section 6. Costs and Attorney's Fees. In the event any Court Proceeding is instituted for the purpose of enforcing these restrictions, whether by a Lot Owner or by Declarant, then the prevailing party shall recover, as a cost of such action, his entire expenses and costs, including attorney's fees.

Section 7. Declarant Enforcement Rights.

(a) The Declarant, its heirs and assigns, or any purchaser of a lot in the subdivision shall have the right to enforce compliance with these restrictions and covenants.

(b) The Declarant, during the period of Declarant control, herein reserves the right to modify, change or cancel any or all of the these restrictions and covenants as it, in its sole and uncontrolled discretion and judgment, may deem necessary for future use or development of the land.

Section 8. Mortgage Titles. Nothing contained herein shall restrict or prohibit the mortgaging of any lot or the passage of title under any mortgage foreclosure; nor shall anything herein be determined to apply to or affect the transfer of title by will or under the intestate laws. However, the purchasers at any foreclosure sale and the heirs and devisees of any owners, after acquiring title by foreclosure, demise or under the intestate laws, and their successors in title, shall be bound by the provisions of this Declaration as to any subsequent sale or transfer of said Lot.

Section 9. Planned Community. It is the intent of this Declaration to create a Planned Community under the North Carolina Planned Community Act, Chapter 47F of the North Carolina General Statutes. Provided however, that in the event of a conflict between the provisions of this Declaration and the provisions of Chapter 47F, the provisions of this Declaration shall control. Further, the provisions of this Declaration shall be interpreted so far as possible in a manner consistent with the provisions of the North Carolina Planned Community Act.

IN WITNESS WHEREOF, the undersigned, pursuant to authority duly given, has hereunto set his hand and seal upon this instrument the day and year first above written.

CONTUCK PROPERTIES, LLC

By: SM Salik (SEAL)
Scott M. Salik, Managing Member

State of North Carolina

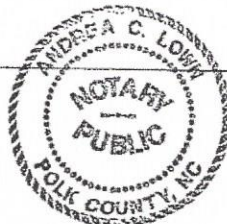
County of Polk

I, Andrea C. Low, a Notary Public of the County and State aforesaid, certify that SCOTT M. SALIK personally came before me this day and acknowledged that he is Managing Member of CONTUCK PROPERTIES, LLC, a North Carolina Limited Liability Company and that he as Managing Member, being authorized to do so, executed the foregoing on behalf of the Company.

Witness my hand and official stamp or seal, this 23rd day of February, 2006.

Andrea C. Low (Seal)
Notary Public

My Commission Expires: 12/14/07



FILED in POLK County, NC
on Jan 18 2007 at 11:02:56 AM
by: SHEILA W. WHITMIRE
REGISTER OF DEEDS
BOOK 349 PAGE 1756

STATE OF NORTH CAROLINA
COUNTY OF POLK

AMENDMENT TO DECLARATION OF
COVENANTS, RESTRICTIONS AND
EASEMENTS OF CONTUCK PRESERVE

THIS AMENDMENT TO DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS OF CONTUCK PRESERVE (the "Amendment") is made this 16th day of January 2007, by Contuck Properties, LLC, a North Carolina Limited Liability Company herein after referred to as ("Declarant").

WITNESSETH:

WHEREAS, Declarant is the developer of certain real property known as Contuck Preserve located in white Oak Township, Polk County, North Carolina, which is more particularly shown on Plat of Contuck Preserve, Phase 1 recorded in Card File E at Page 1278, and Contuck Preserve, Phase 2 recorded in Card File E at Page 1450, in the Office of the Register of Deeds for Polk County, North Carolina (the "Property"); and,

WHEREAS, Declarant has subjected the Property to the Declaration of Covenants, Restrictions and Easements of Contuck Preserve as recorded in Book 338 at Page 380 in the Office of the Register of Deeds for Polk County (hereinafter referred to as the "Declaration"); and,

WHEREAS, pursuant to the Declaration, the Declarant has reserved the right to modify, change or cancel any or all of the restrictions and covenants.

WHEREAS, Declarant desires to exercise its right to modify certain provisions of the Declaration to accomplish the changes set forth herein.

NOW, THEREFORE, Declarant hereby amends and modifies the Declaration recorded in Book 338 at Page 380, Polk County Registry, as follows:

1. **Article V, Restrictions and Covenants, Section 5 of the Declaration of Covenants, Restrictions and Easements** is deleted in its entirety and replaced with the following:

"No dwelling shall be erected on any lot having less than 1,600 square feet of heated floor space on the main or ground floor of the residence. Multi-story homes shall have a minimum of 2,100 square feet. The floor space required by this section shall not include basements, porches, verandas, breezeways or garages."

2. Article V, Restrictions and Covenants, Section 7 of the Declaration of Covenants, Restrictions and Easements is modified by adding subparagraph (f) to the lot maintenance provisions for unimproved and improved lots set forth in the second paragraph of said section, as follows:

(f) Keeping their lot free of any kudzu or other pervasive and/or exotic plants, as the same may be classified by the North Carolina Agricultural Extension Service or North Carolina State University. Failure of a lot owner to comply with this provision shall entitle the Declarant and/or association to the enforcement rights set forth in paragraph 34 herein.

3. All remaining provisions, terms and conditions of the Declaration and any supplements or amendments thereto shall remain in full force and effect.

IN WITNESS WHEREOF, the Declarant has caused this Amendment to be executed by its duly authorized officer, as of the day and year first above written.

CONTUCK PROPERTIES, LLC

a North Carolina Limited Liability Company

By: SM Salik
Scott M. Salik, Member/Manager

STATE OF NORTH CAROLINA
COUNTY OF POLK

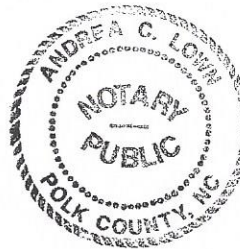
I, Andrea C. Lown, a Notary Public of the County and State aforesaid, certify that Scott M. Salik, personally appeared before me this day and acknowledged that he is Member/Manager of Contuck Properties, LLC, a North Carolina Limited Liability Company, and being authorized to do so, executed the foregoing on behalf of said Company.

Witness my hand and official stamp or seal, this 16th day of January, 2007.

Andrea C. Lown
Notary Public

My Commission Expires:

12/14/07



*Hugh Franklin
9920 Kinney Ave Suite 210
Huntsville AL 28078


Doc ID: 002020610003 Type: CRP
Recorded: 08/09/2010 at 04:45:06 PM
Fee Amt: \$20.00 Page 1 of 3
Polk, NC
Sheila Whitmire Register of Deeds
BK **381** PG **2473-2475**

STATE OF NORTH CAROLINA

**SECOND AMENDMENT TO
DECLARATION OF COVENANTS,
RESTRICTIONS AND EASEMENTS
OF CONTUCK PRESERVE**

COUNTY OF POLK

**THIS SECOND AMENDMENT TO DECLARATION OF COVENANTS,
RESTRICTIONS AND EASEMENTS OF CONTUCK PRESERVE** (the
"Amendment") is made this 5th day of August 2010 by Contuck Properties, LLC, a
North Carolina Limited Liability Company herein after referred to as ("Declarant").

WITNESSETH:

WHEREAS, Declarant is the developer of certain real property known as Contuck Preserve located in White Oak Township, Polk County, North Carolina, which is more particularly shown on Plat of Contuck Preserve, Phase 1 recorded in Card File E at Page 1278, and Contuck Preserve, Phase 2 recorded in Card File E at Page 1450, in the Office of the Register of Deeds for Polk County, North Carolina (the "Property"); and,

WHEREAS, Declarant has intended to subject the Property to the Declaration of Covenants, Restrictions and Easements of Contuck Preserve as recorded in Book 338 at Page 380 in the Office of the Register of Deeds for Polk County, as amended in Book 349 at page 1756 (hereinafter referred to as the "Declaration"); and,

WHEREAS, pursuant to the Declaration, the Declarant has reserved the right to modify, change or cancel any or all of the restrictions and covenants.

WHEREAS, Declarant desires to exercise its right to modify certain provisions of the Declaration to accomplish the changes set forth herein.

NOW, THEREFORE, Declarant hereby amends and modifies the Declaration recorded in Book 338 at Page 380, and the Amendment thereto recorded in Book 349, Page 1756, Polk County Registry, as follows:

1. **Article 1 Section 1 Property Subject to this Declaration**, is modified to include the property shown on plat of survey entitled "Contuck Preserve Phase 2" dated July 26, 2006 and recorded in Card File E at page 1450, Polk County registry.

2. **Article V, Restrictions and Covenants, Section 5 of the Declaration of Covenants, Restrictions and Easements** is deleted in its entirety and replaced with the following:

"No dwelling shall be erected on any lot having less than 1400 square feet of heated floor space on the main or ground floor of the residence. Multi-story homes shall have a minimum of 1800 square feet. The floor space required by this section shall include finished basements, but shall not include porches, verandas, breezeways or garages."

3. **Article III Section 1 Property Rights in the Common Properties**, is amended by striking the last five sentences thereof.

4. **Article V Section 33 is amended** by the addition of a subsection (i) to read as follows:

"Notwithstanding any other provision hereof, Camping on any lot shall be limited to no more than ten nights out of any thirty day period."

5. **Article V Section 36 is deleted in its entirety.**

6. **Pursuant to Article VI Section 7 the undersigned Declarant transfers and assigns each and every reserved Developer Right as defined in the Declaration which may be exercised in the future to Waterfront Group Contuck, LLC**

7. **Article III shall include a new Section 4, to read as follows:**

- a) The subdivision plat depicts certain common driveways which are not part of the dedicated subdivision roadways, but are designed to be used by two or more lots for access.
- b) Such rights of way and easements shall be perpetual in nature, and shall inure to the benefit of the owner of any such numbered lot shown on the plat which is or could be accessed by such drive, their heirs and assigns forever.
- c) Each lot owner who establishes access off of such private drive, by acceptance of a deed to such lot, and by establishing access off such joint easement shall be deemed to agree to maintain equally and on a pro-rata basis the said private road in good condition, with proper ditching and drainage on both sides of the road, adequate gravel or pavement, sufficient to keep the road in stable condition, free of ruts and potholes, sufficient to allow comfortable passage by any type of motor vehicle over and across said road, and to and from each of the lots or parcels of real property owned by the lot owners accessing such common drive
- d) If the owner of any lot accessed by any such roadway desires to improve and to begin use of the roadway, and the owners of one or more of the

other lots are not available, or does not wish to participate, then such owner shall have the right to install necessary improvements, including but not limited to culverts, road base, gravel, or minor grading at their own expense. Such owner may certify by paid receipts and invoices to the secretary of the Association, the cost of improvement of such of the roadway as would be jointly maintained. Thereafter, whenever one of the other lot owners entitled to use the road establishes access off such road onto their lot, such owner shall pay their pro rata share of the expense for initial improvement to the roadway to the lot owner who advanced such expense, and shall then be liable for their pro rata proportion of future maintenance of such roadway.”

8. All remaining provisions, terms and conditions of the Declaration and any supplements or amendments thereto shall remain in full force and effect.

IN WITNESS WHEREOF, the Declarant has caused this Amendment to be executed by its duly authorized officer, as of the day and year first above written.

CONTUCK PROPERTIES, LLC
A North Carolina Limited Liability Company

By: Scott M. Salik
Scott M. Salik, Member/Manager

STATE OF COLORADO
COUNTY OF Denver

I, Jennifer Pool, a Notary Public of the County and State aforesaid, certify that Scott M. Salik, personally appeared before me this day and acknowledged that he is Member/Manager of Contuck Properties, LLC, a North Carolina Limited Liability Company, and being authorized to do so, executed the foregoing on behalf of said Company.

Witness my hand and official stamp or seal, this 5th day of August 2010.

Jennifer Pool
Notary Public

My Commission Expires: 11/29/2011

